

AMENDED IN ASSEMBLY MAY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1898

Introduced by Assembly Member Brown

February 19, 2014

An act to amend Section 121025 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1898, as amended, Brown. Public health records: reporting: HIV/AIDS.

Existing law, with specified exceptions, prohibits the disclosure of public health records containing personally identifiable information relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) that were developed or acquired by a state or local public health agency. Existing law authorizes *disclosure of these public health records if otherwise provided by law for public health purposes, pursuant to a written authorization by the person who is the subject of the record, or when the confidential information is necessary to carry out the duties of the public health agency or researcher in the investigation, control, or surveillance of disease. Existing law requires these authorized disclosures to include only the information necessary for the purpose of that disclosure and to be made upon the agreement that the information will be kept confidential and will not be further disclosed without written authorization.*

Existing law provides exceptions to the above-described requirements on the disclosure of information regarding public health records relating to HIV or AIDS, and authorizes specified disclosures of that information

for the purpose of enhancing the completeness of HIV/AIDS, tuberculosis, and sexually transmitted disease coinfection reporting to the federal Centers for Disease Control and Prevention (CDC), including authorizing local public agency tuberculosis control staff to disclose the information to certain state public health agency staff who may further disclose the information to the CDC, as specified.

This bill would *require any disclosure authorized under these provisions to include only the information necessary for the purpose of that disclosure and to be made upon the agreement that the information will be kept confidential and will not be further disclosed without written authorization. The bill would include other communicable and chronic diseases of public health importance, as specified, hepatitis B, hepatitis C, and meningococcal infection* for HIV/AIDS coinfection reporting to the CDC. The bill would additionally authorize local public health agency communicable disease staff to further disclose the information to state public health agency staff, ~~who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent it is requested by the CDC.~~ *staff for the purpose of the investigation, control, or surveillance of HIV and coinfection with hepatitis B, hepatitis C, and meningococcal infection.*

Existing law authorizes local public health agency sexually transmitted disease control and tuberculosis control staff to disclose the HIV/AIDS-related information to state or local public health agency sexually transmitted disease control and tuberculosis control staff, the HIV-positive person, or his or her health care provider, for the purpose of facilitating appropriate medical care and treatment of persons coinfecting with HIV, tuberculosis, syphilis, gonorrhea, or chlamydia.

This bill would ~~instead~~ *additionally* authorize any local public health agency *sexually transmitted disease control, communicable disease control, and tuberculosis* staff to *further* disclose that information to ~~any appropriate state or local public health agency sexually transmitted disease control, communicable disease control, and tuberculosis~~ staff for the purpose of facilitating appropriate medical care and treatment of persons coinfecting with ~~HIV and those diseases, or other communicable or chronic diseases of public health importance, HIV, hepatitis B, hepatitis C, or meningococcal infection,~~ *HIV, hepatitis B, hepatitis C, or meningococcal infection,* as specified.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 121025 of the Health and Safety Code
2 is amended to read:

3 121025. (a) Public health records relating to human
4 immunodeficiency virus (HIV) or acquired immunodeficiency
5 syndrome (AIDS), containing personally identifying information,
6 that were developed or acquired by a state or local public health
7 agency, or an agent of that agency, shall be confidential and shall
8 not be disclosed, except as otherwise provided by law for public
9 health purposes or pursuant to a written authorization by the person
10 who is the subject of the record or by his or her guardian or
11 conservator.

12 (b) In accordance with subdivision (g) of Section 121022, a
13 state or local public health agency, or an agent of that agency, may
14 disclose personally identifying information in public health records,
15 as described in subdivision (a), to other local, state, or federal
16 public health agencies or to corroborating medical researchers,
17 when the confidential information is necessary to carry out the
18 duties of the agency or researcher in the investigation, control, or
19 surveillance of disease, as determined by the state or local public
20 health agency.

21 ~~(e) Except as provided in paragraphs (1) to (3), inclusive, any~~
22 ~~disclosure authorized by subdivision (a) or (b) shall include only~~
23 ~~the information necessary for the purpose of that disclosure and~~
24 ~~shall be made only upon agreement that the information will be~~
25 ~~kept confidential and will not be further disclosed without written~~
26 ~~authorization, as described in subdivision (a).~~

27 ~~(1)~~

28 (c) (1) Notwithstanding any other law, the following disclosures
29 shall be authorized for the purpose of enhancing the completeness
30 of reporting to the federal Centers for Disease Control and
31 Prevention (CDC) of HIV/AIDS and coinfection with tuberculosis,
32 syphilis, gonorrhea, chlamydia, ~~or other communicable and chronic~~
33 ~~diseases of public health importance, as determined by the state~~
34 ~~or local public health agency, including, but not limited to, hepatitis~~
35 ~~B, hepatitis C, salmonellosis, and meningococcal infection, and~~
36 ~~listeriosis: infection.~~

37 (A) The local public health agency HIV surveillance staff may
38 further disclose the information to the health care provider who

1 provides HIV care to the HIV-positive person who is the subject
2 of the record for the purpose of assisting in compliance with
3 subdivision (a) of Section 121022.

4 (B) Local public health agency tuberculosis control staff may
5 further disclose the information to state public health agency
6 tuberculosis control staff, who may further disclose the information,
7 without disclosing patient identifying information, to the CDC, to
8 the extent the information is requested by the CDC and permitted
9 by subdivision (b), for purposes of the investigation, control, or
10 surveillance of HIV and tuberculosis coinfections.

11 (C) Local public health agency sexually transmitted disease
12 control staff may further disclose the information to state public
13 health agency sexually transmitted disease control staff, who may
14 further disclose the information, without disclosing patient
15 identifying information, to the CDC, to the extent it is requested
16 by the CDC and permitted by subdivision (b), for the purposes of
17 the investigation, control, or surveillance of HIV and syphilis,
18 gonorrhea, or chlamydia coinfection.

19 (D) Local public health agency communicable disease staff may
20 further disclose the information to state public health agency staff,
21 ~~who may further disclose the information, without disclosing~~
22 ~~patient identifying information, to the CDC, to the extent it is~~
23 ~~requested by the CDC and permitted by subdivision (b), staff for~~
24 ~~the purposes of the investigation, control, or surveillance of~~
25 ~~coinfection with HIV and other communicable and chronic diseases~~
26 ~~of public health importance, as determined by the state or local~~
27 ~~public health agency, including, but not limited to, and coinfection~~
28 ~~with hepatitis B, hepatitis C, salmonellosis, and meningococcal~~
29 ~~infection, and listeriosis. infection.~~

30 (2) Notwithstanding any other law, the following disclosures
31 shall be authorized for the purpose of facilitating appropriate
32 HIV/AIDS medical care and treatment:

33 (A) State public health agency HIV surveillance staff, AIDS
34 Drug Assistance Program staff, and care services staff may further
35 disclose the information to local public health agency staff, who
36 may further disclose the information to the HIV-positive person
37 who is the subject of the record, or the health care provider who
38 provides his or her HIV care, for the purpose of proactively offering
39 and coordinating care and treatment services to him or her.

1 (B) AIDS Drug Assistance Program staff and care services staff
2 in the State Department of Public Health may further disclose the
3 information directly to the HIV-positive person who is the subject
4 of the record or the health care provider who provides his or her
5 HIV care, for the purpose of proactively offering and coordinating
6 care and treatment services to him or her.

7 (C) Local public health agency staff may further disclose
8 acquired or developed information to the HIV-positive person who
9 is the subject of the record or the health care provider who provides
10 his or her HIV care for the purpose of proactively offering and
11 coordinating care and treatment services to him or her.

12 (3) Notwithstanding any other law, for the purpose of facilitating
13 appropriate medical care and treatment of persons coinfectd with
14 HIV and tuberculosis, syphilis, gonorrhea, chlamydia, ~~or other~~
15 ~~communicable and chronic disease of public health importance,~~
16 ~~as determined by the state or local public health agency, hepatitis~~
17 ~~B, hepatitis C, or meningococcal infection,~~ local public health
18 agency *sexually transmitted disease control, communicable disease*
19 *control, and tuberculosis control* staff may further disclose the
20 information to ~~appropriate state or local public health agency~~
21 ~~sexually transmitted disease control, communicable disease~~
22 ~~control, and tuberculosis control~~ staff, the HIV-positive person
23 who is the subject of the record, or the health care provider who
24 provides care for the patient ~~coinfectd with HIV and tuberculosis,~~
25 ~~syphilis, gonorrhea, chlamydia, or other communicable and chronic~~
26 ~~disease: his or her HIV, tuberculosis, hepatitis B, hepatitis C,~~
27 ~~meningococcal infection, and sexually transmitted disease control~~
28 ~~care.~~

29 (4) For the purposes of paragraphs (2) and (3), “staff” shall not
30 include nongovernmental entities, but shall include state and local
31 contracted employees who work within state and local public health
32 departments.

33 (d) A confidential public health record, as defined in subdivision
34 (c) of Section 121035, shall not be disclosed, discoverable, or
35 compelled to be produced in any civil, criminal, administrative,
36 or other proceeding.

37 (e) (1) A person who negligently discloses the content of a
38 confidential public health record, as defined in subdivision (c) of
39 Section 121035, to a third party, except pursuant to a written
40 authorization, as described in subdivision (a), or as otherwise

1 authorized by law, shall be subject to a civil penalty in an amount
2 not to exceed five thousand dollars (\$5,000), plus court costs, as
3 determined by the court. The penalty and costs shall be paid to the
4 person whose record was disclosed.

5 (2) A person who willfully or maliciously discloses the content
6 of any confidential public health record, as defined in subdivision
7 (c) of Section 121035, to a third party, except pursuant to a written
8 authorization, or as otherwise authorized by law, shall be subject
9 to a civil penalty in an amount not less than five thousand dollars
10 (\$5,000) and not more than twenty-five thousand dollars (\$25,000),
11 plus court costs, as determined by the court. The penalty and costs
12 shall be paid to the person whose confidential public health record
13 was disclosed.

14 (3) A person who willfully, maliciously, or negligently discloses
15 the content of a confidential public health record, as defined in
16 subdivision (c) of Section 121035, to a third party, except pursuant
17 to a written authorization, or as otherwise authorized by law, that
18 results in economic, bodily, or psychological harm to the person
19 whose confidential public health record was disclosed, is guilty
20 of a misdemeanor, punishable by imprisonment in a county jail
21 for a period not to exceed one year, or a fine of not to exceed
22 twenty-five thousand dollars (\$25,000), or both, plus court costs,
23 as determined by the court. The penalty and costs shall be paid to
24 the person whose confidential public health record was disclosed.

25 (4) A person who commits an act described in paragraph (1),
26 (2), or (3), shall be liable to the person whose confidential public
27 health record was disclosed for all actual damages for economic,
28 bodily, or psychological harm that is a proximate result of the act.

29 (5) Each violation of this section is a separate and actionable
30 offense.

31 (6) This section does not limit or expand the right of an injured
32 person whose confidential public health record was disclosed to
33 recover damages under any other applicable law.

34 (f) In the event that a confidential public health record, as
35 defined in subdivision (c) of Section 121035, is disclosed, the
36 information shall not be used to determine employability, or
37 insurability of a person.

38 (g) *Any disclosure authorized by subdivision (a), (b), or (c) shall*
39 *include only the information necessary for the purpose of that*
40 *disclosure and shall be made only upon the agreement that the*

1 *information (1) will be kept confidential and (2) will not be further*
2 *disclosed without written authorization, as described in subdivision*
3 *(a). Any unauthorized further disclosure will be subject to the*
4 *penalties described in subdivision (e).*

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